

App. No. 09/905189
Office Action Dated July 11, 2005
Amd. Dated October 11, 2005

REMARKS

Applicants have received and reviewed an Office Action dated July 11, 2005. Claims 1, 15, 19, 24, 33 and 47 are amended. Claims 2, 3, 8, 11, 12, 15, 31 and 32 are canceled without prejudice. No new matter has been added. Claims 1, 4-7, 16-20, 24-30, 33 and 35-47 are pending. Applicants submit that the pending claims are supported by the specification.

In particular, claims 1, 24, 33 and 47 have been amended to recite "free of added strong acid", as supported throughout the specification, for example at page 31, line 27. Claims 1, 24, 33 and 47 have also been amended to recite "about 1 wt-% to about 5 wt-% mono-or-diester dicarboxylate, about 1 wt-% to about 4 wt-% hydrogen peroxide, and about 95 wt-% to about 99 wt-% water", as supported throughout the specification, for example at page 47, Table 1, and as also supported by canceled claims 3 and 32. Claim 4 has been amended to correspond with newly amended claim 1. Claim 19 has been amended editorially.

For the reasons given below, Applicants submit the pending claims are in condition for allowance and notification to that effect is earnestly solicited.

Claim Rejections

The Examiner rejected claims 1-5, 11-12, 15-20, 24-25 and 29-32 under 35 U.S.C. § 102(b) as anticipated by Carr et al. (WO 95/34537). The Examiner rejected claims 1-8, 11-12, 15-20, 24-33, and 35-47 under 35 U.S.C. § 103(a) as being obvious over Carr et al. (WO 95/34537) in view of Hei et al. (US 6,593,283) and Chemical Abstracts 134:97683. Applicants respectfully traverse these rejections, and request examination in light of the following comments.

With regard to claims 2, 3, 11, 12, 15, 31 and 32, this rejection is rendered moot, as those claims have been canceled.

Applicants respectfully submit that the amended claims reflect the compositions employed in the Example and shown in Table 1, page 47, of the present specification. These inventive compositions surprisingly have much greater antimicrobial activity against *C. funicola* and *B. subtilis* than do Perestane™ and various Perestane™ containing compositions (*Id.*). Applicants note that Perestane is the commercial embodiment of the compositions described by Carr et al. As indicated in Table 1 of the present application, Perestane™ does not provide

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greater than 1 log 10 reduction of specific microbes as required by the pending claims. In fact, Perestane™ and Perestane containing compositions provide only 0.4 log or less reduction. Therefore, the present application establishes that the compositions claimed in the amended claims have properties and content distinct from compositions described by Carr et al.

Further, independent claims 1, 24, 33 and 47 recite about 1 wt-% to about 4 wt-% hydrogen peroxide. The effective compositions in the Carr et al. examples contain about 10 wt% hydrogen peroxide. Carr fails to teach or suggest about 1 wt-% to about 4 wt-% hydrogen peroxide as recited in claims 1, 24, 33 and 47.

Carr et al. cannot anticipate the presently claimed invention because it fails to teach or suggest a composition as presently claimed having about 1 wt-% to about 4 wt-% hydrogen peroxide or having the recited antimicrobial activity. Likewise, Carr, alone or in combination with other references, does not render the presently claimed invention obvious. The teachings of Hei et al. and the Chemical Abstract fail to remedy the shortcomings of Carr et al.

For at least these reasons, Applicants believe the pending claims are in condition for allowance. Applicants respectfully request withdrawal of these rejections.

Summary

In summary, Applicants submit that each of claims 1, 4-7, 16-20, 24-30, 33 and 35-47 are in condition for allowance. The Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below, if the Examiner believes that doing so will expedite prosecution of this application.

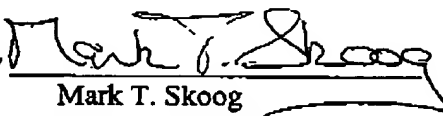


Dated: October 11, 2005

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Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

By 
Mark T. Skoog
Reg. No. 40,178